

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>COLE’S WEXFORD HOTEL, INC.,</b>	)	
on its own behalf and on behalf of all	)	
others similarly situated,	)	Case No. 2:10-cv-01609-JFC
	)	
Plaintiffs,	)	Judge Joy Flowers Conti
	)	
v.	)	
	)	
<b>UPMC and</b>	)	
<b>HIGHMARK INC.,</b>	)	
	)	
Defendants.	)	
	)	
	)	

**PLAINTIFF’S AND HIGHMARK’S MOTION FOR PRELIMINARY  
APPROVAL OF SETTLEMENT AND RELATED MATTERS**

Plaintiff class representative, Cole’s Wexford Hotel, Inc. (“Plaintiff”), and Defendant Highmark Inc. (“Highmark”), through undersigned counsel, following extensive mediation and negotiation of a settlement resolving all claims against Highmark in the above-captioned litigation (the “Settlement”), having executed the Settlement Agreement dated December 19, 2019 (the “Agreement”), respectfully move the Court for entry of an Order:

1. Preliminarily approving the Settlement on the terms set forth in the Agreement;
2. Approving the form, substance, and requirements of the: (a) proposed notice; (b) proposed notice plan; (c) proposed claim form; (d) proposed settlement administrators; and (e) proposed preliminary plan of allocation; and
3. Setting forth a schedule and procedures for: (a) dissemination or publication of the notice; (b) objecting to the Settlement; (c) requesting exclusion from the Settlement Class; (d) rescinding any prior exclusion request in accordance with the notice; (e) submitting papers in support of final approval of the Settlement; and (f) the Settlement Hearing.

For the reasons more fully set forth in the accompanying Brief in Support of Plaintiff's and Highmark's Motion for Preliminary Approval of Settlement and Related Matters, Plaintiff and Highmark respectfully request that the Court enter the Proposed Order attached hereto.

Respectfully submitted,

/s/ Margaret M. Zwisler

Margaret M. Zwisler (*pro hac vice*)  
Jennifer L. Giordano (*pro hac vice*)  
LATHAM & WATKINS LLP  
555 Eleventh Street, N.W., Suite 1000  
Washington, DC 20004  
Telephone: (202) 637-2200  
Facsimile: (202) 637-2201  
Email: Margaret.Zwisler@lw.com  
Email: Jennifer.Giordano@lw.com

Alfred C. Pfeiffer, Jr. (*pro hac vice*)  
LATHAM & WATKINS LLP  
505 Montgomery Street, Suite 2000  
San Francisco, CA 94111  
Telephone: (415) 391-0600  
Facsimile: (415) 395-8095  
Email: Al.Pfeiffer@lw.com

John G. Ebken  
Richard T. Victoria  
GORDON & REES LLP  
707 Grant Street, 38th Floor  
Pittsburgh, PA 15219  
Telephone: (412) 577-7400  
Facsimile: (412) 347-5461  
Email: jebken@gordonrees.com  
Email: rvictoria@gordonrees.com

*Attorneys for Highmark*

/s/ Hamish Hume

Hamish Hume (*pro hac vice*)  
Melissa Felder Zappala (*pro hac vice*)  
BOIES, SCHILLER & FLEXNER LLP  
1401 New York Ave NW  
Washington, D.C. 20005  
Tel: 202-237-2727  
Fax: 202-237-6131  
hhume@bsfllp.com  
mzappala@bsfllp.com

Arthur H. Stroyd, Jr. (Pa. No. 15910)  
Steven J. Del Sole (Pa. No. 73460)  
Patrick K. Cavanaugh (Pa. No. 72960)  
DEL SOLE CAVANAUGH STROYD LLC  
200 1st Avenue, Suite 300  
Pittsburgh, PA 15222  
Tel: 412-261-2393  
Fax: 412-261-2110  
astroyd@dscslaw.com  
sdelsole@dscslaw.com

Andrew M. Stone (Pa. No. 35176)  
STONE LAW FIRM, LLC  
The Frick Building, Suite 1806  
437 Grant Street  
Pittsburgh, PA 15219  
Tel: 412-391-2005  
Fax: 412-391-0853  
astone@stone-law-firm.com

Scott M. Hare (Pa. No. 63818)  
The Frick Building, Suite 1806  
437 Grant Street  
Pittsburgh, PA 15219  
Tel: 412-338-8632  
Fax: 412-338-6611  
scott@scottlawpgh.com

David Stone (*pro hac vice*)  
Julio Gomez (*pro hac vice*)  
STONE & MAGNANINI LLP  
100 Connell Dr. #2200  
Berkeley Heights, NJ 07922  
Tel: 973-218-1111 Fax: 973-218-1106  
dstone@stonemagnalaw.com  
jgomez@stonemagnalaw.com

Dated: December 20, 2019

*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

The undersigned certifies that, on December 20, 2019, a true and correct copy of the foregoing was served on all counsel of record by the Court's electronic filing system (CM/ECF).

/s/ Hamish Hume  
Hamish Hume